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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIS R. BROWN,

Defendant and Appellant.

2d Crim. No. B214403
(Super. Ct. No. BA345591)
(Los Angeles)

Willis R. Brown appeals from the judgment following a nolo contendere plea to possession of cocaine base for sale (Health & Saf. Code, § 11351.5) and admission that he suffered a prior strike conviction within the meaning of the Three Strikes law (Pen. Code §§ 667, subds. (b)-(i); 1170.12, subds. (a)-(d)).¹ Pursuant to the negotiated plea, the trial court dismissed three counts for sale/transportation/offering to sell cocaine (Health & Saf. Code, § 11352, subd. (a)) and struck nine prior strike convictions (§ 1385). Appellant was sentenced to six years state prison and ordered to pay a \$200 restitution fine (§ 1202.4, subd. (b)), a \$200 parole revocation fine (§ 1202.45), a \$20 court security fee (§ 1465.8, subd. (a)(1), a \$50 lab fee (Health & Saf. Code, § 11372.5), and a \$85 penalty assessment (§ 1464; Gov. Code, § 76000).

¹ All statutory references are to the Penal Code.

We appointed counsel to represent appellant in this appeal. After counsel's examination of the record, counsel filed an opening brief in which no issues were raised.

On June 9, 2009, we advised appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. Appellant submitted two letter briefs stating, among other things, that he was not advised of his rights when the change of plea was entered, that there was no factual basis for the plea, that the prior strike conviction was invalid and should have been stricken², that a prior felony conviction may not be used to plea bargain in certain cases (§§ 667, subd. (g); 1192.7), and that he was denied effective assistance of counsel.

The preliminary hearing transcript reflects that appellant sold cocaine to informants on three occasions. Officers executed a search warrant and found 17 packages of cocaine base in appellant's apartment, narcotics paraphernalia, a hunting knife, and money in mixed denominations.

At the change of plea hearing, appellant admitted that he suffered a robbery conviction in 1984, that he was pleading no contest to possession of cocaine base for sale, and that the maximum sentence was 10 years state prison. The clerk's and reporter's transcripts show that appellant was advised of and waived his constitutional rights, and that it was stipulated that the trial court could consider the police reports and preliminary hearing transcript. In accepting the change of plea, the trial court found that appellant knowingly and expressly waived his constitutional rights, that the plea was freely and voluntarily made, and there was a factual basis for the plea. The record does not support appellant's claim that the prior strike conviction should have been stricken or that trial counsel provided ineffective representation. (*People v. Cunningham* (2001) 25 Cal.4th 926, 1003; *People v. Kraft* (2000) 23 Cal.4th 978, 1068-1069.)

²Appellant has filed a petition for writ of habeas corpus, B217203, alleging that the strike prior should have been stricken. We dispose of the writ petition by separate order, filed this day.

We have reviewed the record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 125-126.)

The judgment is affirmed.

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YEGAN, J.

We concur:

GILBERT, P.J.

COFFEE, J.

Charlene F. Olmedo, Judge
Superior Court County of Los Angeles

Sharon Fleming, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Respondent.